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Date: January 23, 2007  
To: COZART, JERMIE E. - 3726  
Location: United States Patent and Trademark Office  
Fax No.: 571-273-8300  
From: Gary J. Cunningham - 33,488  
Subject: 10/702,346- Bratek, Daniel J. Confirmation No.: 8107

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Enclosed herewith, please find a **Reply Brief** for filing in the above-identified application.

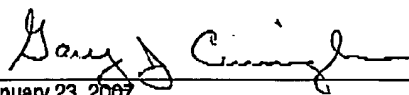
JAN 23 2007

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after Initial Filing)	Application Number	10/702,346	
	Filing Date	November 6, 2003	
	First Named Inventor	Bratek, et al.	
	Art Unit	3726	
	Examiner Name	Cozart, Jermie E.	
Total Number of Pages in this Submission	Attorney Docket Number	IS01350AP	


  

ENCLOSURES			(check all that apply)
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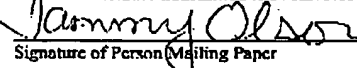
UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT(S)	DAVID J. BRATEK	GROUP ART	3726
		UNIT:	
APPLN. NO.:	10/702,346	EXAMINER	COZART, JERMIE
FILED:	November 6, 2003	Confirmation No.	8107
TITLE:	HIGH PRESSURE SENSOR WITH KNURL PRESS-FIT ASSEMBLY		

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Date of deposit: January 23, 2007

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REPLY BRIEF

Commissioner for Patents  
P.O. Box 1450  
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Sir:

This is Appellants' Reply Brief.

## ARGUMENTS

The §103(a) rejection of claims 1-12 is traversed.

**Claims 1-12 stand rejected as unpatentable under 35 U.S.C. §103(a) over Pepperling, 6,715,360 in view of Ito, 5,158,390.**

To establish a prima facie case of obviousness, three basic criteria must be met. First, *there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.* Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See, e.g. MPEP § 2143. Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432.).

In answer to Appellants' brief, it is respectfully submitted that the Examiner continues to make unsupported leaps. Specifically, there is a failure to provide an appropriate motivation to combine these references or to provide any evidence that these references would be the source of a proper combination.

Simply put, there is no reason whatsoever that one of skill in the art would be motivated to modify the teachings of Pepperling in any fashion whatsoever. The allegation that Ito teaches knurls does not address the fundamental problem with this rejection – one of skill in the art would not be motivated to seek out different solutions since *Pepperling does not suggest that better methods may exist.* In the absence of any such suggestion to look elsewhere, the Examiner cannot conclusively assert that one of skill in the art would seek out the teachings of Ito. In fact, and as argued by Appellant, one of skill in the art, even if one looked elsewhere, would not look to Ito, since the mechanical stresses and strains in the devices taught by Pepperling and Ito (sensor housing on the one hand and a rotor/shaft on the other) are so different. Rather than argue unclaimed limitations previously, Appellants pointed out that those of skill in the art would not be motivated to seek Ito's teachings.

In order to combine Pepperling and Ito, according to established case law, the Examiner must prove a motivation to combine. It is respectfully asserted that the Examiner has not met this burden with these references. In order to prove a motivation to combine, the Examiner must prove more than "1+1=§103" by stating the 'teachings' of each case. Instead, the Examiner must prove a teaching or motivation to combine, and illustrate exactly why one of skill in the art would be motivated to consult the secondary reference, and why the combination works.

Here, the Examiner's argument seems to be, substantially, that since Pepperling does not disclose knurls, those of skill in the art would look to references showing knurls, to discover knurls. See, bottom of page 9 of the Examiner's answer. Such an argument is respectfully off the mark, since it assumes the existence of the very knowledge that presumably one of skill in the art is missing.

Additionally, it is respectfully submitted that the Examiner fails to successfully counter the plain fact that lateral forces are significantly different, from a mechanical point of view, than torquing forces. Those of skill in the art understand the differences between torque and lateral forces, and solutions to torquing forces are dramatically different than solutions to lateral forces. The Examiner appears to continue to confuse Appellants' argument by asserting a reliance on unclaimed matter, but Appellants argue the utter lack of motivation to combine, and illustrate the several differences between torquing and lateral forces to illustrate that the Examiner's position is technically, mechanically, and legally off the mark.

Furthermore, the modifications suggested by the Examiner would destroy the function of the references. Specifically, claim 1 requires a "semi-rigid mount" which is different than the firm joint taught and suggested by Ito. As noted in the specification, the claimed sensor assembly must be able to "allow[s] some lateral movement to prevent mounting stress sensor error" (i.e. the claimed "semi-rigid mount"). See, specification, page 3, lines 15-19. In contrast, the Ito reference aims to produce a jointing structure in which a rotor and a shaft are *firmly* jointed. See, col. 1, lines 12-17, inter alia. Rather than firmly jointing the pressure sensor and housing, the instant claims attempt to actually allow some lateral movement. Were a rigid or firmly jointed attachment used, mounting stress sensor error would be introduced to pressure readings from such a sensor – destroying the purpose of the sensor, since the rigidly attached device would introduce sensor error (as taught by the specification). At a minimum, the Examiner fails to provide any evidence that designers actually seek to *introduce* error into their sensing systems, and Appellants proffer that a *reduction* in sensor error is desired. Thus, the combination suggested by the Examiner would not function as intended, and these references do not support a §103(a) rejection.

Therefore, Appellants respectfully request the withdrawal of the rejections to claims 1-12.

**SUMMARY**

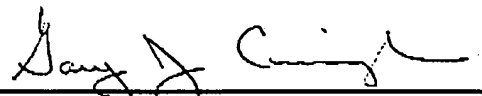
The Appellants respectfully submit that claims 1-12 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

Dated: **January 23, 2007**

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Respectfully submitted,  
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